

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON

In RE: SERZONE

PRODUCTS LIABILITY LITIGATION

MDL NO. 1477

Hon. Joseph R. Goodwin

Appeal of Dontay Barnes (Docket No. 618)

MEMORANDUM OPINION AND ORDER

On July 11, 2006, attorney Gerald Tallmadge Braddock filed appeals on behalf of seventy-two clients alleging that the Claims Administrator's decision in each case must be reversed because the Claims Administrator failed to allow the clients a reasonable time to provide medical records and cure deficiencies in their submissions. (# 618.) The above-named Plaintiff is one of the seventy-two clients named in Mr. Braddock's filing. As set forth in the court's Memorandum Opinion and Order entered August 9, 2006, the court, following an evidentiary hearing, rejected the arguments of Plaintiffs' counsel that the Claims Administrator failed to allow reasonable time to cure deficiencies. (# 767.) Despite Mr. Braddock's neglect of his clients' claims and the untimeliness of their appeals, the court stated that it would consider the appeals. (# 767, p. 7.)

Upon review of the file of Plaintiff Dontay Barnes, the court finds that his appeal should be dismissed as moot, as he applied

for placement in Fund D and was placed by the Claims Administrator in Fund D.

Accordingly, it is hereby **ORDERED** that the appeal of Dontay Barnes is **DENIED** as moot.

The Clerk is directed to transmit a copy of this Memorandum Opinion and Order to Plaintiffs' counsel, Plaintiff Dontay Barnes, liaison counsel for plaintiffs and Bristol-Myers Squibb Company, and the Claims Administrator.

ENTER: September 22, 2006



Mary E. Stanley
United States Magistrate Judge